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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/478,875	01/07/00	KOHLMAN	R 2127

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EXAMINER

GRAVINI, S

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 11/30/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/478,875

Applicant(s)

Randolph S. KOHLMAN et al.

Examiner

Stephen M. Gravini

Group Art Unit

3749



☒ Responsive to communication(s) filed on Jul 17, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-83 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-83 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3, drawn to a treating method combination, classified in class 34, subclass 306.
 - II. Claims 4-21, drawn to an treating method subcombination, classified in class 34, subclass 309.
 - III. Claims 22-28, drawn to a subcombination treatment apparatus, classified in class 34, subclass 61.
 - IV. Claims 29-46, drawn to a treating method subcombination, classified in class 34, subclass 311.
 - V. Claims 47-56, drawn to a treating method subcombination, classified in class 34, subclass 357.
 - VI. Claims 57-58, drawn to a treating method subcombination, classified in class 34, subclass 380.
 - VII. Claims 59-60, drawn to a subcombination treatment apparatus, classified in class 34, subclass 79.
 - VIII. Claims 61-72, drawn to a subcombination treatment apparatus, classified in class 34, subclass 95.

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IX. Claims 73-83, drawn to a subcombination treatment apparatus, classified in class 34, subclass 107.

2. The inventions are distinct, each from the other because of the following reasons: Inventions of groups I, II, IV, V, & VI and groups III, VII, VIII, & IX are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus or by hand because the independently claims process/method contains the steps “placing articles to be cleaned in a container through an opening having a closure means,” “securing the closure,” and “subjecting articles to a tumbling action in the presence of a cleaning agent.” These steps are not limitations in the independently claimed apparatus. Since these limitations are independent and distinct from both groups of the above stated inventions, it would be a serious burden on the examiner to distinguish each patentable feature from the current U.S. and foreign classification system.

3. Inventions of group III and groups VII, VIII, and IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group III has

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separate utility such as a two panel bag joined along at least one seam forming rigidifying wall discontinuity. These separate uses (claimed as a two panel single seam bag and rigidifying wall discontinuity) distinguish the invention of group III from groups VII, VIII, and IX since the two panel single seam bag and rigidifying wall discontinuity are not limitations of those independently claimed inventions. Therefore the invention of group III is a separately usable subcombination. See MPEP § 806.05(d).

4. Inventions of group VI and groups I, II, IV, and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group VI has separate utility such as freshening, removing vapors, gas input/output venting, and kinetic pumping. These separate uses (claimed as freshening, removing vapors, gas input/output venting, and kinetic pumping) distinguish the invention of group VI from groups I, II, IV, and V since the freshening, removing vapors, gas input/output venting, and kinetic pumping are not limitations of the independently claimed invention of groups I, II, IV, and V. Therefore the invention of group II is a separately usable subcombination. See MPEP § 806.05(d).

5. Inventions of group I and groups II, IV, and group V are each related as combination and subcombination. Group I is the combination and groups II, IV, and V are subcombinations of group I. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and

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(2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as independently claimed does not require the particulars of the subcombinations as independently claimed because structural rigidity tumbling promoting (independently claimed in subcombination group II), textile substrate polymer facing (independently claimed in subcombination group IV), the Kawabata friction and stiffness values (independently claimed in subcombination group V) are particulars of the subcombinations that are not required in the combination invention of group I. Because the combination, as independently claimed does not require the particulars of the subcombinations of groups II, IV, and V, each of these groups shows a distinct relationship with each succeeding combination and subcombination. In other words group V is a subcombination of combination group IV, group IV is a subcombination of group II, and group II is a subcombination of group I for the particulars stated. The subcombinations have separate utility such as Kawabata friction and stiffness values (group V), textile substrate polymer facing (group IV), and the structural rigidity tumbling promoting (group II). Each of these independently claimed separate utility features separate the subcombinations such that each subcombination has utility by itself or in other combinations.

6. Inventions of group VII and groups VIII and group IX are each related as combination and subcombination. Group VII is the combination and groups VIII and IX are subcombinations of group VII. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for

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patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as independently claimed does not require the particulars of the subcombinations as independently claimed because the greater Kawabata friction values without the independently claimed friction values (independently claimed in subcombination group VIII), the Kawabata maximum friction and stiffness values (independently claimed in subcombination group IX) are particulars of the subcombinations that are not required in the combination invention of group VII. Because the combination, as independently claimed does not require the particulars of the subcombinations of groups VII and IX, each of these groups shows a distinct relationship with each succeeding combination and subcombination. In other words group IX is a subcombination of combination group VII, and group VIII is a subcombination of group VII for the particulars stated. The subcombinations have separate utility such as the greater Kawabata friction values without the independently claimed friction values (group VIII), and the Kawabata maximum friction and stiffness values (group IX). Each of these independently claimed separate utility features separate the subcombinations such that each subcombination has utility by itself or in other combinations.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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8. Since the requirement for restriction is complex, authorization for this written restriction requirement is per MPEP § 812.01.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Gravini whose telephone number is (703) 308-7570 and electronic transmission/e-mail address is "steve.gravini@uspto.gov". **If applicants chose to send information by e-mail, please be aware that confidentiality of the electronically transmitted message cannot be assured.** Information may also be sent to the examiner by facsimile machine at (703) 308-7764. Please also see MPEP § 502.01. Examiner requests notice of an incoming facsimile by either telephone or e-mail.

Steve Gravini

**STEPHEN M. GRAVINI
PRIMARY EXAMINER**

smg
November 30, 2000